

Senate Amendment 3301

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1 1 Amend House File 780, as passed by the House, as
1 2 follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 <Section 1. Section 598.21C, Code 2007, is amended
1 6 to read as follows:
1 7 598.21C MODIFICATION OF CHILD SUPPORT, SPOUSAL
1 8 SUPPORT, OR MEDICAL SUPPORT, AND CHILD CUSTODY ORDERS.
1 9 1. CRITERIA FOR MODIFICATION. Subject to 28
1 10 U.S.C. } 1738B, the court may subsequently modify
1 11 child, spousal, or medical support orders when there
1 12 is a substantial change in circumstances. In
1 13 determining whether there is a substantial change in
1 14 circumstances, the court shall consider the following:
1 15 a. Changes in the employment, earning capacity,
1 16 income, or resources of a party.
1 17 b. Receipt by a party of an inheritance, pension,
1 18 or other gift.
1 19 c. Changes in the medical expenses of a party.
1 20 d. Changes in the number or needs of dependents of
1 21 a party.
1 22 e. Changes in the physical, mental, or emotional
1 23 health of a party.
1 24 f. Changes in the residence of a party.
1 25 g. Remarriage of a party.
1 26 h. Possible support of a party by another person.
1 27 i. Changes in the physical, emotional, or
1 28 educational needs of a child whose support is governed
1 29 by the order.
1 30 j. Contempt by a party of existing orders of
1 31 court.
1 32 k. Entry of a dispositional or permanency order in
1 33 juvenile court pursuant to chapter 232 placing custody
1 34 or physical care of a child with a party who is
1 35 obligated to pay support for a child. Any filing fees
1 36 or court costs for a modification filed or ordered
1 37 pursuant to this paragraph are waived.
1 38 l. Other factors the court determines to be
1 39 relevant in an individual case.
1 40 2. ADDITIONAL CRITERIA FOR MODIFICATION OF CHILD
1 41 SUPPORT ORDERS.
1 42 a. Subject to 28 U.S.C. } 1738B, but
1 43 notwithstanding subsection 1, a substantial change of
1 44 circumstances exists when the court order for child
1 45 support varies by ten percent or more from the amount
1 46 which would be due pursuant to the most current child
1 47 support guidelines established pursuant to section
1 48 598.21B or the obligor has access to a health benefit
1 49 plan, the current order for support does not contain
1 50 provisions for medical support, and the dependents are
2 1 not covered by a health benefit plan provided by the
2 2 obligee, excluding coverage pursuant to chapter 249A
2 3 or a comparable statute of a foreign jurisdiction.
2 4 b. This basis for modification is applicable to
2 5 petitions filed on or after July 1, 1992,
2 6 notwithstanding whether the guidelines prescribed by
2 7 section 598.21B were used in establishing the current
2 8 amount of support. Upon application for a
2 9 modification of an order for child support for which
2 10 services are being received pursuant to chapter 252B,
2 11 the court shall set the amount of child support based
2 12 upon the most current child support guidelines
2 13 established pursuant to section 598.21B, including
2 14 provisions for medical support pursuant to chapter
2 15 252E. The child support recovery unit shall, in
2 16 submitting an application for modification,
2 17 adjustment, or alteration of an order for support,
2 18 employ additional criteria and procedures as provided
2 19 in chapter 252H and as established by rule.
2 20 3. APPLICABLE LAW. Unless otherwise provided
2 21 pursuant to 28 U.S.C. } 1738B, a modification of a
2 22 support order entered under chapter 234, 252A, 252C,
2 23 600B, this chapter, or any other support chapter or
2 24 proceeding between parties to the order is void unless

2 25 the modification is approved by the court, after
2 26 proper notice and opportunity to be heard is given to
2 27 all parties to the order, and entered as an order of
2 28 the court. If support payments have been assigned to
2 29 the department of human services pursuant to section
2 30 234.39, 239B.6, or 252E.11, or if services are being
2 31 provided pursuant to chapter 252B, the department is a
2 32 party to the support order.

2 33 3A. MODIFICATION OF CHILD CUSTODY ORDERS.

2 34 Modifications of orders pertaining to child custody
2 35 shall be made pursuant to chapter 598B. If the
2 36 petition for a modification of an order pertaining to
2 37 child custody asks either for joint custody or that
2 38 joint custody be modified to an award of sole custody,
2 39 the modification, if any, shall be made pursuant to
2 40 section 598.41.

2 41 3B. TEMPORARY MODIFICATION OF CHILD SUPPORT OR

2 42 CHILD CUSTODY ORDERS. While an application for
2 43 modification of a child support or child custody order
2 44 is pending, the court may, on its own motion or upon
2 45 application by either party, enter a temporary order
2 46 modifying an order of child support or child custody.
2 47 The court may enter such temporary order only after
2 48 service of the original notice, and an order shall not
2 49 be entered until at least five days' notice of
2 50 hearing, and opportunity to be heard, is provided to
3 1 all parties. In entering temporary orders under this
3 2 subsection, the court shall consider all pertinent
3 3 matters, which may be demonstrated by affidavits, as
3 4 the court may direct. The hearing on the application
3 5 shall be limited to matters set forth in the
3 6 application, the affidavits of the parties, and the
3 7 required statements of income. The court shall not
3 8 hear any other matter relating to the application for
3 9 modification, respondent's answer, or any pleadings
3 10 connected with the application for modification or the
3 11 answer.

3 12 4. RETROACTIVITY OF MODIFICATION. Judgments for
3 13 child support or child support awards entered pursuant
3 14 to this chapter, chapter 234, 252A, 252C, 252F, 600B,
3 15 or any other chapter of the Code which are subject to
3 16 a modification proceeding may be retroactively
3 17 modified only from three months after the date the
3 18 notice of the pending petition for modification is
3 19 served on the opposing party. The three-month
3 20 limitation applies to a modification action pending on
3 21 or after July 1, 1997. The prohibition of retroactive
3 22 modification does not bar the child support recovery
3 23 unit from obtaining orders for accrued support for
3 24 previous time periods. Any retroactive modification
3 25 which increases the amount of child support or any
3 26 order for accrued support under this subsection shall
3 27 include a periodic payment plan. A retroactive
3 28 modification shall not be regarded as a delinquency
3 29 unless there are subsequent failures to make payments
3 30 in accordance with the periodic payment plan.

3 31 5. MODIFICATION OF PERIODIC DUE DATE. The
3 32 periodic due date established under a prior order for
3 33 payment of child support shall not be changed in any
3 34 modified order under this section, unless the court
3 35 determines that good cause exists to change the
3 36 periodic due date. If the court determines that good
3 37 cause exists, the court shall include the rationale
3 38 for the change in the modified order and shall address
3 39 the issue of reconciliation of any payments due or
3 40 made under a prior order which would result in payment
3 41 of the child support obligation under both the prior
3 42 and the modified orders.

3 43 6. MODIFICATION BY CHILD SUPPORT RECOVERY UNIT.

3 44 Notwithstanding any other provision of law to the
3 45 contrary, when an application for modification or
3 46 adjustment of support is submitted by the child
3 47 support recovery unit, the sole issues which may be
3 48 considered by the court in that action are the
3 49 application of the guidelines in establishing the
3 50 amount of support pursuant to section 598.21B, and
4 1 provision for medical support under chapter 252E.
4 2 When an application for a cost-of-living alteration of
4 3 support is submitted by the child support recovery
4 4 unit pursuant to section 252H.24, the sole issue which
4 5 may be considered by the court in the action is the

4 6 application of the cost-of-living alteration in
4 7 establishing the amount of child support. Issues
4 8 related to custody, visitation, or other provisions
4 9 unrelated to support shall be considered only under a
4 10 separate application for modification.
4 11 7. NECESSARY CONTENT OF ORDER. Orders made
4 12 pursuant to this section need mention only those
4 13 factors relevant to the particular case for which the
4 14 orders are made but shall contain the names, birth
4 15 dates, addresses, and counties of residence of the
4 16 petitioner and respondent.
4 17 8. DUTY OF CLERK OF COURT. If the court modifies
4 18 an order, and the original decree was entered in
4 19 another county in Iowa, the clerk of court shall send
4 20 a copy of the modification by regular mail, electronic
4 21 transmission, or facsimile to the clerk of court for
4 22 the county where the original decree was entered.>
4 23 #2. Title page, line 2, by inserting after the
4 24 word <support> the following: <or custody>.
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4 27
4 28 COMMITTEE ON JUDICIARY
4 29 KEITH A. KREIMAN, CHAIRPERSON
4 30 HF 780.201 82
4 31 rh/es/9205